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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,227	11/20/2001	Gianluigi Gamberini	377/9-1612	9689

7590

11/19/2003

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EXAMINER

TRAN, LOUIS B

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,227

Applicant(s)

GAMBERINI, GIANLUIGI

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This action is in response to applicant's amendment, Paper No. 8, received on 09/25/2003.

***Election/Restrictions***

2. This application contains claims 5-9 and 11 drawn to an invention nonelected with traverse in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dall'Omo (5,465,550) .

With respect to claim 1, Dall'Omo shows a conveying device for machines for packaging articles in rolls, the conveying device including conveying means 3 moved stepwise along an endless path, in a forward movement direction, a series of spaced out carriages 21 fastened to said conveying means and disposed in pairs, each pair of said pairs of said adjacent carriages defining holding seats for respective groups of articles 2 to be packaged in a single pack with a sheet of a wrapping material 22, each carriage of said carriages including gliding means 4 fastened to said conveying means

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crosswise to said forward movement direction of said conveying means, slide means 13 slidably mounted on said gliding means 4 and located in a selected position along said gliding means of said carriages, a series of pushing prongs extending perpendicular to said conveying means, from said slide means, means for adjusting said pushing prongs on said carriages during operation of the machine by moving said slide means to a new selected position along said gliding means seen in Figures 2 and 3.

With respect to claim 2, Dall'Omo shows a device wherein the number of said pushing prongs on each carriage is the maximum possible, in relation to the dimensions of the groups of articles to be packaged in a pack seen in Figure 1.

With respect to claim 3, Dall'Omo shows a device wherein said slide means are kept by friction on said gliding means by elastic gripping means as in column 3, lines 67.

With respect to claim 4, Dall'Omo shows a device wherein said means for adjusting the position of the pushing prongs engaged with respective longitudinal grooves made on slide means 13 seen in Figure 2.

With respect to claim 10, Dall'Omo shows wherein said gliding means 4 include a pair of stems, which are arranged crosswise to said forward movement direction of the conveying means and having opposite ends fastened to said carriages, said carriages sliding on guiding means following a close loop path.

***Allowable Subject Matter***

5. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

6. Applicant's remarks have been fully considered but are deemed non-persuasive. Applicant contends claim 1 requires the means for adjusting said pushing prongs on said carriages does not exist in Dall'Omo.

In response to applicant's contention that Dall'Omo does not meet the means plus function claim language, examiner draws attention of applicant to MPEP § 2181 which states that claim limitations must be interpreted to read on only the structures or materials disclosed in the specification and "equivalents thereof."

Moreover, means plus function limitations are given their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification and their equivalents including the manner in which the claimed functions are performed. See *Kemco Sales, Inc. v. Control Papers Company, Inc.*, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000).

In the instant case, the means for adjusting pushing prongs as broadly claimed in claim 1 can be considered the "equivalent thereof" absent any specific claimed structure.

For the reasons above, the grounds of rejection are deemed proper.

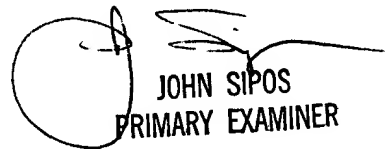
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
JOHN SIPOS  
PRIMARY EXAMINER

lbt